



COTTONWOOD HEIGHTS CITY
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

ADMINISTRATIVE HEARING AGENDA

June 17, 2020

NOTICE is hereby given that the Cottonwood Heights Community and Economic Development Director or designee will hold an Administrative Hearing Meeting on **Wednesday, June 17, 2020 beginning at 12:00 p.m.** electronically. In view of the current COVID-19 pandemic, this meeting will occur only electronically, without a physical location, as authorized by the Governor's Executive Order 2020-05 dated 18 March 2020. The public may remotely hear the open portions of the meeting through live broadcast by connecting to <http://mixlr.com/chmeetings>

*****Public comments may be submitted to City staff by email at sdeseelhorst@ch.utah.gov up to the start of the meeting at 12:00 pm, MST. Comments received by that deadline will be verbally read into the meeting's record by the Director or a designee. Comments received after the start of the meeting will be forwarded to the Director, but not read into the meeting record or addressed during the meeting. There will be no opportunity for verbal comments, questions, or other input by the public during this electronic meeting.*****

12:00 p.m. ADMINISTRATIVE HEARING MEETING

1.0 Business Items

1.1. (Project CUP-20-011)

Request from Paul Harmon for a wall height extension at 3219 E Danish Way

2.0 Consent Agenda

2.1. Approval of Minutes for June 17, 2020

(The Director will move to approve the above-mentioned minutes after the following process is met. The recorder will prepare the minutes and email them to the Director and present staff members. The Director and members will have five days to review the minutes and provide any changes to the recorder. If, after five days there are no changes, the minutes will stand approved. If there are changes, the process will be followed until the changes are made and the Director and members agree, at which time the minutes shall be deemed approved.)

3.0 Adjournment

Meeting Procedures

Items will generally be heard in the following order:

1. Staff Presentation
2. Applicant Presentation
3. Open Public Hearing (if item has been noticed for public hearing). Written public comment received prior to the meeting will be read into the record.
4. Close Public Hearing
5. Community and Economic Development Director Deliberation
6. Community and Economic Development Director Decision

Administrative Hearing applications may be tabled if: 1) Additional information is needed in order to act on the item; OR 2) The Community and Economic Development Director feels there are unresolved issues that may need further attention before the Director is ready to make a decision. The Community and Economic Development Director may carry over agenda items to the next regularly scheduled meeting.

Submission of Written Public Comment

Written comments on any agenda item should be received by the Cottonwood Heights Community and Economic Development Department prior to the start of the meeting to be read into the record. Comments should be emailed to sdeseelhorst@ch.utah.gov. Comments received after the start of the meeting will be distributed to the Director after the meeting.

Notice of Compliance with the American Disabilities Act (ADA)

In compliance with the Americans with Disabilities Act, individuals needing special accommodations or assistance during this meeting shall notify the City Recorder at (801)944-7021 at least 24 hours prior to the meeting. TDD number is (801)270-2425 or call Relay Utah at #711.

Confirmation of Public Notice

A copy of the foregoing notice was posted in conspicuous view in the front foyer of the Cottonwood Heights City Offices. The agenda was also posted on the City's website at www.cottonwoodheights.utah.gov and the State Public Meeting Notice website at <http://pmn.utah.gov>.

DATED THIS 12th day of June, 2020
Paula Melgar, City Recorder

Administrative Hearing Staff Report

Meeting Date: June 17, 2020



FILE NUMBER: CUP-20-011

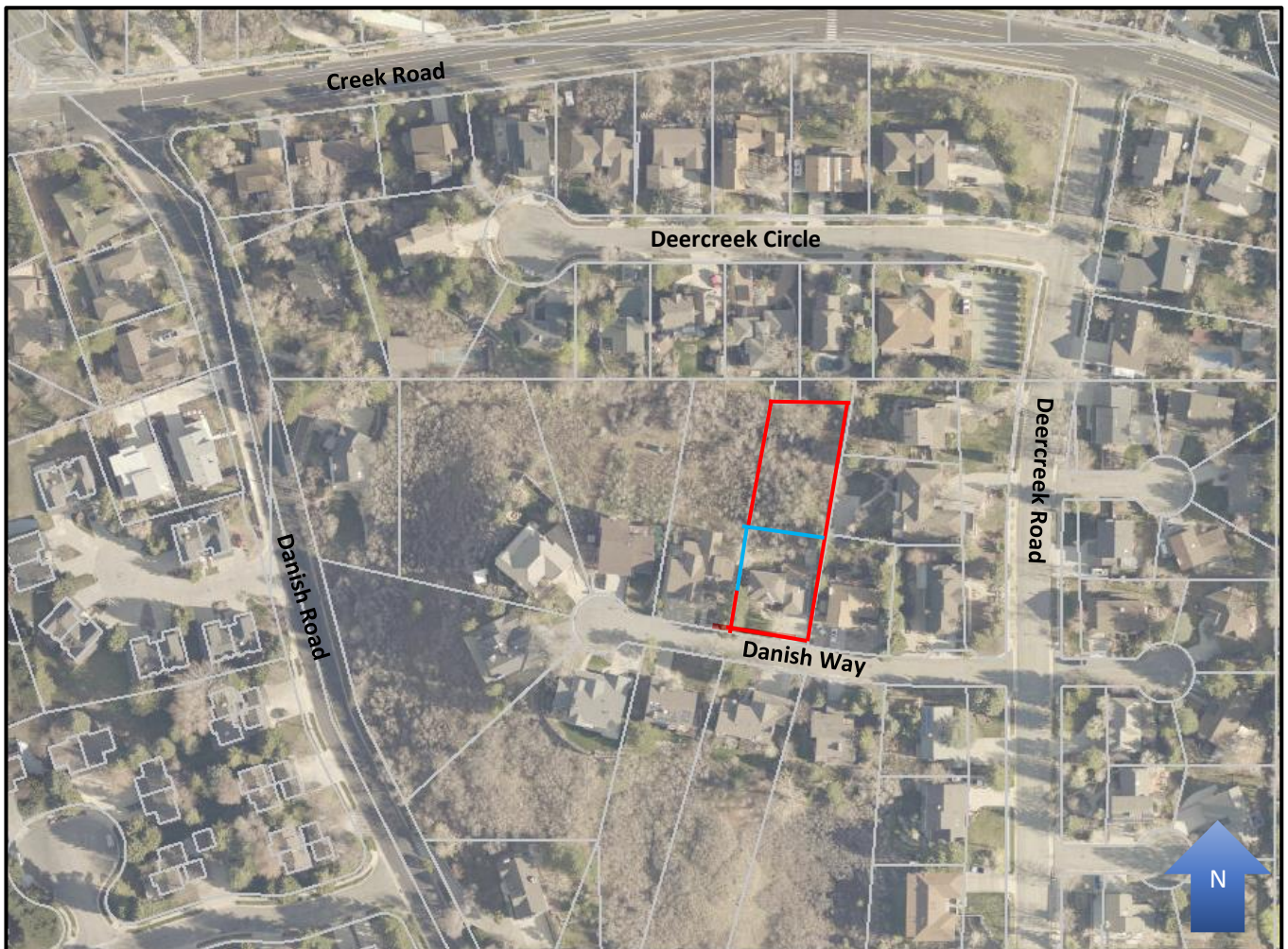
LOCATION: 3219 E Danish Way, Cottonwood Heights, UT, 84121

REQUEST: Conditional use wall height extension to construct a 7' fence

OWNER/APPLICANT: Paul & Candice Harmon

STAFF CONTACT: Samantha DeSeelhorst, 801-944-7069

RECOMMENDATION: Approve, with conditions



This aerial image shows the subject property in context of the neighborhood. The red lines show the property lines, and the blue line shows the location of the proposed fence.

APPLICANT'S PROPOSAL

The applicant is proposing to construct a 7-foot wooden fence along a portion of their western property line and along their northern property line. The reason for this request is due to a desire for increased privacy between the subject property and the neighboring property to the west. According to the applicant, the neighboring property continually exhibits several nuisances, including presence of junk, disruptive and possibly criminal behavior, and undesirable odors including cigarette smoke. The applicant is hopeful that a 7-foot fence would mitigate these privacy issues and provide a barrier against visual and sensory nuisances. In the words of the applicant, "It is our hope that a [7-foot] fence will allow us to gain some privacy and enjoy the use of our yard which we are currently not able to do. We are also hoping it will provide some level of barrier to the smoke which wafts into our yard all day and night."

The applicant states that the standard 6-foot fence would not sufficiently mitigate these privacy concerns. There is a grade difference between the subject property and its neighboring lot, with the subject property sitting at a higher grade. Because of this, a six-foot fence does not provide full screening. In the words of the applicant, "A 6-foot fence will not provide the necessary barrier to both the visual and audible issues we have. Not to mention we believe the extra height will contribute to mitigating the cigarette smoke. We feel that 8' is probably unnecessary but that 7' would be the optimal balance of giving us the privacy and not be overwhelming visually."



Demonstration of the difference in grade between the two lots.



Six Foot Measurement

Back patio still visible



Seven Foot Measurement

Back patio fully screened

Along the western property line, the proposed 7-foot fence will be on top of an existing retaining wall. The collective height of this retaining wall and the proposed fence, as measured from the retaining wall's midpoint, is 8.5 feet. As outlined in 19.76.050 of CH City Code, adjacent neighbor consent is required if the proposed fence exceeds eight feet. Neighbor consent was received and has been attached at the end of this staff report.

BACKGROUND

Zoning

The zoning designation of the property is R-1-8 (Residential Single Family). Fences and walls may be allowed to a maximum height of eight feet in any zone as a conditional use, and up to 12 feet as a conditional use with neighbor consent, as outlined in section 19.76.050.E CH Code.

E. Fences.

1. No fence, wall or hedge shall be erected to a height which exceeds four feet in the required front yard and six feet in the side yards and/or rear yard. Fencing to a maximum height of eight feet may be allowed for side and/or rear yards as a conditional use upon a clear and convincing showing by the property owner:

(a) Of unique or special circumstances of a material, adverse nature relating to the property that will be substantially minimized or eliminated by the increased height of the requested fence; and

(b) That erection of such a fence is the most reasonable solution under the circumstances. Any such conditional use permit may be granted by the director or his designee following an administrative hearing preceded by all required notifications. A building permit shall be

required for all fences approved as a conditional use.

(d) "Neighbor consent" means that all neighbors abutting the proposed wall/fence will be required to provide written consent for retaining wall/fence height above eight feet up to 12 feet.

3. Conditional use. Fences in the side and rear yards may be erected to the maximum height of eight feet as a conditional use upon a clear and convincing showing by the property owner in accordance with subsections (a) and (b) below:

(a) The existence of unique or special circumstances of a natural material and adverse nature relating to the property that will be substantially minimized or eliminated by the increased height of the requested fence; and

(b) That erection of such a fence is most reasonable solution under the most reasonable circumstances. Any such conditional use permit may be granted by the director or his designee following an administrative hearing preceded by all required notifications. A building permit shall be required for all fences approved as a conditional use.

4. Neighbor consent. Side and rear yard fences may exceed eight feet in height to a maximum height of 12 feet in cases where the applicant has neighbor consent and has received conditional use approval in accordance with subsection 19.76.050(E)(3).

IMPACT ANALYSIS

Staff Analysis: Due to unique slope conditions between the subject property and its western neighbor, as well as sustained nuisance concerns, staff finds this application to be a reasonable mitigation effort, as well as one which meets the process outlined in CH City Code.

Nuisance Analysis

The applicant is requesting the wall height extension in order to increase privacy and eliminate visual and sensory nuisances. Staff finds that a 7-foot fence will not create any new nuisances, but rather might mitigate existing ones.

Noticing

Property owners within 300 feet of the subject property have been mailed notices. Notices were mailed, as well as posted on websites and the City Hall bulletin board, on June 4th, 2020.

Conditional Use Permit Determining Criteria

Staff has found enough evidence that the standards for the issuance of a conditional use permit have been satisfied (see Section 19.84.080 CH Code).

FINDINGS FOR APPROVAL

1. There is clear and convincing evidence shown by the property owner of a unique or special circumstance relating to privacy and adjacent fencing that will be substantially minimized or eliminated by the implementation of the requested wall; (19.76.050.E.1.a)
2. That construction of such wall is the most reasonable solution under the circumstances. The additional fence height is necessary to ensure mitigation of aforementioned issues.
3. The conditional use permit is granted by the director or his designee following an administrative hearing preceded by all required notifications. (19.76.050.E.1.b)
4. The evidence presented with the proposed conditional use has been found to be compliant with the requirements of section 19.84.080 (Conditional Uses – Determination) and section 19.76.050.E (Miscellaneous – Fences).
5. There is sufficient evidence that the standards for the issuance of a conditional use permit as outlined in Section 19.84.080 CH Code have been satisfied.

RECOMMENDED CONDITIONS OF APPROVAL

1. A building permit and all necessary inspections shall be obtained and completed.

MODEL MOTIONS

- Approval
 - “I move to approved item CUP-20-011 pursuant to the conditions of approval outlined in the item’s staff report.”
 - Add any additional conditions of approval....
- Denial
 - “I move to deny item CUP-20-011 based on the following findings...”
 - List reasons for denial...

ATTACHMENTS:

- 1. Applicant Statement**
- 2. Proposed Layout**
- 3. Neighbor Consent**
- 4. Neighbor Comment**

6/1/2020

This is a request for a wall height extension for a wooden fence along the western boundary of Lot 5 located at 3219 Danish Way Cottonwood Heights, Utah 84121

The reason for this request is due to an invasive environment at our neighbors to the west. This family has a history of juvenile delinquency, disruptive behavior and possible criminal activity that has been well documented by the Cottonwood Heights Police.

The back deck of the neighbor is in full and constant view from our home and back yard. There is a constant presence of old furniture, coolers, garbage cans, etc. left on their deck and constant use by the occupants of the basement as a place to hang out and smoke cigarettes.

It is our hope that a fence will allow us to gain some privacy and enjoy the use of our yard which we are currently not able to do. We are also hoping that it will provide some level of barrier to the smoke which wafts into our yard all day and night.

Over the past 2 years we have had multiple conversations with the owners of this property (Chuck & Pat Hedrick) but the conditions have not changed. During this period, we have been in daily view of smoking, drug use, piling of junk on the deck, use of the dwelling by numerous people outside of their family unit. It is an extremely uncomfortable situation and though we have asked the owners to address it, it seems clear to us that in order to have any semblance of privacy and not expose ourselves and children to this view, we feel this is our only course of action remaining.

A 6' fence will not provide the necessary barrier to both the visual and audible issues we have. Not to mention we believe the extra height will contribute to mitigating the cigarette smoke. We feel that 8' is probably unnecessary but that 7' would be optimal balance of giving us the privacy and not be overwhelming visually.

This photo shows the view from our deck and what the requested 7' fence would provide

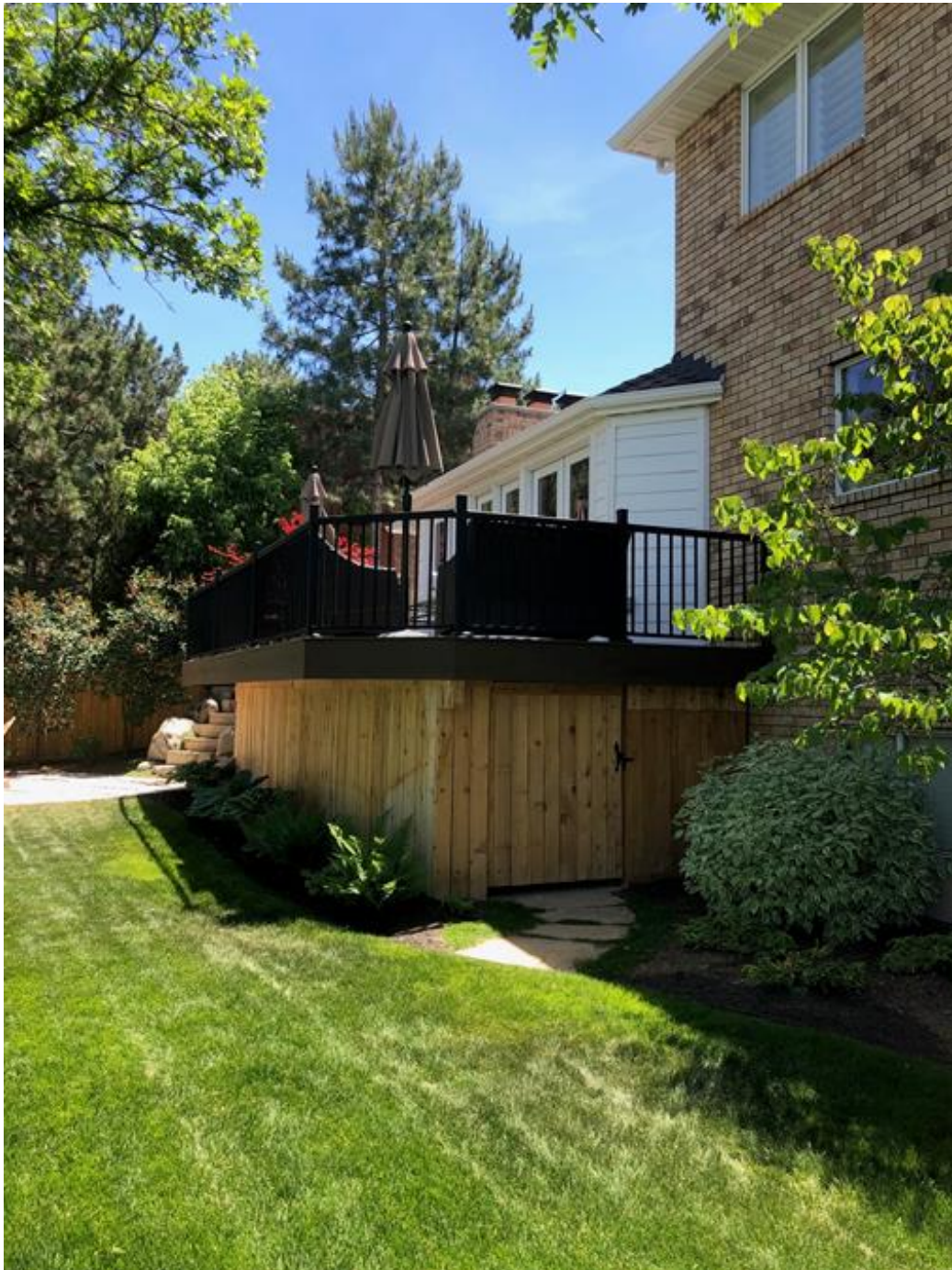


6

6' fence – still lots of visibility



This photo shows our yard looking east. There is a privacy fence on that side and a fence on the western side would give continuity to the rest of the yard.

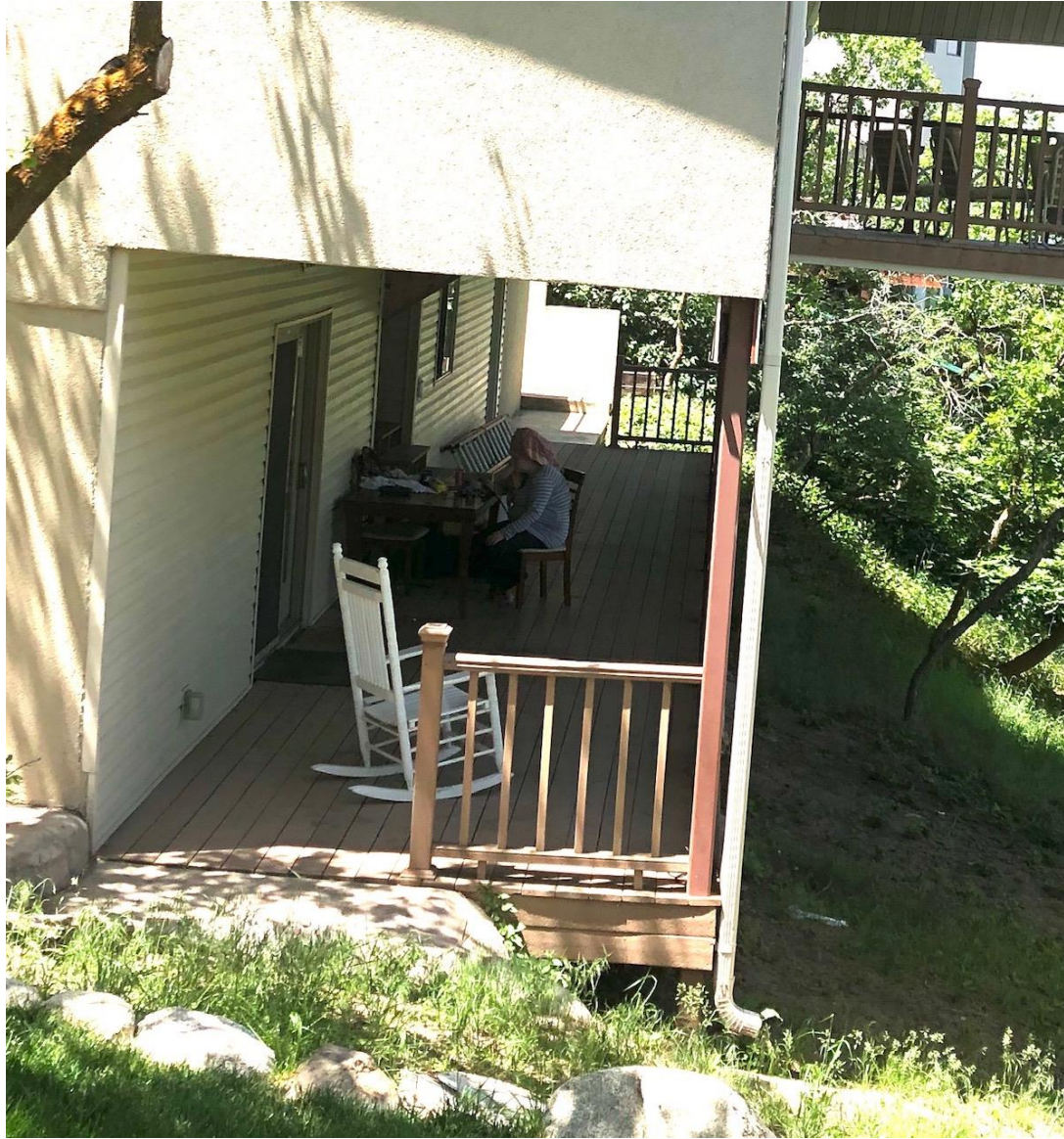


This photo shows our yard looking west and the area in which the fence would be installed.



This photo shows the neighbors back porch and an example of some of the random items that seem to always be present including one of the 7 people living in the house who come out to this spot multiple times a day to smoke.

This space was cleaned up over the weekend. For the past month, at least there was an old treadmill, cooler, garbage can, lawn chairs and multiple items of clothing present. Based on past history this “cleaned up” look will last for at best a week or two.



Danish Hills

A PLANNED RESIDENTIAL DEVELOPMENT FROM ENVIRONMENTAL DANISH HILLS • 3700 EAST DANISH RD. • SALT LAKE COUNTY, UT

PLANNING COMMISSION
APPROVED: _____
DATE: _____

BOARD OF HEALTH
APPROVED: _____
DATE: _____

FLOOD CONTROL DEPT.
APPROVED: _____
DATE: _____

SURVEYORS CERTIFICATE
DATE: _____
COUNTY: _____

APPROVAL AS TO FORM
DATE: _____
COUNTY: _____

COUNTY COMMISSION
APPROVED: _____
DATE: _____

RECORDED
DATE: _____
BOOK: _____

PERSONAL REPRESENTATIVE
NAME: _____
ADDRESS: _____
CITY: _____

PERSONAL REPRESENTATIVE
NAME: _____
ADDRESS: _____
CITY: _____

ACKNOWLEDGMENT
I, _____, do hereby certify that the above is a true and correct copy of the original as filed in the office of the County Clerk of Salt Lake County, Utah, on this _____ day of _____, 19____.

OWNERS DEDICATION
I, _____, do hereby dedicate the above described land to the public for the use and purpose of _____.

BOUNDARY DESCRIPTION
The boundary of the above described land is as follows: _____

Scale: 1" = 50'

CONSENT TO WALL HEIGHT EXTENSION ON ABUTTING PROPERTY

1. I am the owner of property located at 3205 E. DANISH WAY.
2. I consent to the construction of a retaining wall/fence with a height above eight feet up to 12 feet on the property located at 3219 DANISH WAY.
3. I understand that the City of Cottonwood Heights has reviewed this proposal and found it to be in compliance with all adopted ordinances and laws pertaining to the general heights and design regulations for walls, fences and retaining walls, as required by 19.76.050.E. of the zoning ordinance.

Charles Hedrick CHARLES HEDRICK

Print Name(s)

Charles I Hedrick
Signature

6-13-70
Date

Signature

Date

STATE OF UTAH)
 ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this ____ day of _____,
20__ by _____ and _____.

NOTARY PUBLIC

From: [REDACTED]
Sent: Thursday, June 11, 2020 12:08 PM
To: Samantha DeSeelhorst
Cc: Gene Bosley; Annika Hunt
Subject: [EXT:]Public comment - in favor of 3219 E Danish Way wall/fence height extension

As adjacent property owners [REDACTED], we are writing in support of Mr. Harmon's proposed wall height extension at 3219 E Danish Way, pursuant to the notice sent to us June 4th by the City.

Thank you,

Gene Bosley and Annika Hunt, for Eugene K Bosley II & Annika K Hunt Family Trust 09/06/2018

[REDACTED]
[REDACTED]

The information contained in this e-mail is intended only for the individual or entity to whom it is addressed. Its contents (including any attachments) are confidential and may contain privileged information. If you are not an intended recipient you must not use, disclose, disseminate, copy or print its contents. If you receive this e-mail in error, please notify the sender by reply e-mail and delete and destroy this message.

From: [REDACTED]
Sent: Wednesday, June 10, 2020 9:43 AM
To: Samantha DeSeelhorst
Subject: [EXT:]RE: 3219 E. Danish Way - proposed wall height extension

Hello my name is Nicholas and I am the property owner [REDACTED]. I just wanted to send in our support for the wall height extension requested by Mr. Harmon. I have to assume the proposed wall extension is related to the neighboring home that is west on Danish Way (3205 Danish Way?). Said home is a multi-family (children/Grand Children) home that uses the property line to gain access the lower level. The property has high volume of visitors and we frequently hear arguments and fighting across the gully. I have nothing against the residents and their relationships, but do feel the proposed wall has a potential to reduce the sound that carries across the ravine.